

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BRENT W. MYERS,	§	
	§	
Plaintiff,	§	
	§	
V.	§	No. 3:09-cv-2292-N
	§	
M. SWINDELL, ET AL.,	§	
	§	
Defendants.	§	


ORDER

Considering the record in this case and the Findings, Conclusions, and Recommendation of the Magistrate Judge, the Court hereby finds and orders:

- () The application for leave to proceed *in forma pauperis* on appeal pursuant to 28 U.S.C. § 1915 is GRANTED.
- (X) The application for leave to proceed *in forma pauperis* on appeal pursuant to 28 U.S.C. § 1915 is DENIED for the following reasons:
 - () The Plaintiff is not a pauper.
 - () The Plaintiff has not complied with the requirements of 28 U.S.C. § 1915(a)(1) or (a)(2);
 - () The Plaintiff is barred from proceeding *in forma pauperis* on appeal because of the “three strikes” rule of 28 U.S.C. § 1915(g).
 - (X) Pursuant to 28 U.S.C. § 1915(a)(3) and Fed. R. App. P. 24(a)(3), the Court certifies that the appeal is not taken in good faith. In support of this finding, the court incorporates by reference the Findings, Conclusions, and Recommendation of the Magistrate Judge dated January 29, 2013. This Court finds that the appeal presents no legal points of arguable merit and is therefore frivolous.
 - (X) Although this Court has certified that the appeal is not taken in good faith under 28 U.S.C. § 1915(a)(3) and Fed. R. App. P. 24(a)(3), the Plaintiff may challenge this finding pursuant to *Baugh v. Taylor*, 117 F.3d 197 (5th Cir. 1997), by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of the Court, U.S. Court of Appeals for the Fifth Circuit,

within 30 days of this order.

SIGNED this 25th day of March, 2013



DAVID C. GODBEY
UNITED STATES DISTRICT JUDGE